

# **EXHIBIT 5**

## **SUBCONTRACTOR AGREEMENT**

**JOB NO.:** LAF-2013

**DATE:** April 15, 2013

This agreement is made this 13<sup>th</sup> date of April, 2013 by and between **Leo J. Hein Construction, Inc.** (Contractor) and **JFS Company** (Subcontractor) to perform the Work identified in Article 2 in accordance with the Projects Contract Documents.

**PROJECT:** L A Fitness – Sterling Heights, MI

**OWNER:** Fitness International, LLC, 3161 Michelson Dr. Ste 600, Irvine, CA

**CONSTRUCTION  
MANAGER:** C. E. Gleeson Constructors, Inc., 984 Livernois Road, Troy, MI

**ARCHITECT:** Studio 222 Architects, 222 South Morgan St., Chicago, IL

**CONTRACTOR:** Leo J. Hein Construction, Inc.

**SUBCONTRACTOR:** JFS Company

### **ARTICLE 1**

**CONTRACT PAYMENT:** The contractor agrees to pay Subcontractor for satisfactory performance of Subcontractor's Work the sum (which includes all applicable sales tax) of

**\$195,000.00 (One Hundred Ninety Five Thousand Dollars and 00/100)**

Progress payments, less retainage of 10%, shall be made to Subcontractor for Work satisfactorily performed no later than **ten (10)** days after receipt by Contractor of payment from Owner for Subcontractor's Work. Final payment of the balance due shall be made to Subcontractor no later than **ten (10)** days after receipt by Contractor of final payment from Owner for Subcontractor's Work. These payments are subject to receipts of such lien waivers, affidavits, warranties and guarantees required by the Contract Documents or Contractor.

### **ARTICLE 2**

**SCOPE OF WORK:** Subcontractor agrees to commence Subcontractor's Work herein described upon notification by Contractor, and to perform and complete such Work in accordance with Contract Documents and under the general direction of Contractor in accord with Contractor's schedule. This shall include all work necessary or incidental to complete the Work for the Project as more particularly, though not exclusively specified in:

**Provide all labor for drywall installation and finishing per plans and specs  
(all addenda included).**

### ARTICLE 3

**SCHEDULE OF WORK:** This is of the essence. Subcontractor shall provide Contractor with any request scheduling information of Subcontractor's Work. The Schedule of Work, including that of this Subcontract shall be prepared by Contractor and may be revised as the Work progresses.

Subcontractor recognizes that changes may be made in the Schedule of Work and agrees to comply with such changes without additional compensation.

Subcontractor shall coordinate its work with all other contractors, subcontractors and suppliers on the Project so as not to delay or damage their performance, work or the Project.

### ARTICLE 4

**CHANGES:** Contractor, without nullifying this Agreement, may direct Subcontractor in writing to make changes to Subcontractor's Work. Adjustment, if any, in the contract price or contract time resulting from such changes shall be set forth in a Subcontract Change Order pursuant to Contract Documents.

### ARTICLE 5

**FAILURE OF PERFORMANCE:** Should Subcontractor fail to satisfy contractual deficiencies within three (3) working days from receipt of Contractor's written notice, then the Contractor, without prejudice to any right to take whatever steps it deems necessary to correct said deficiencies and charge the cost thereof to Subcontractor, who shall be liable for payment of same, including reasonable overhead, profit and attorneys fees.

### ARTICLE 6

**INSURANCE:** Subcontractor agrees to furnish Contractor with a Certificate of Insurance showing that Subcontractor carries the following insurance policies in the following amounts:

Workers' Compensation and Employee Liability Insurance: Bodily Injury by accident – \$500,000.00 each accident, Bodily Injury by Disease - \$500,000.00, Policy Limit, Bodily Injury by Disease - \$500,000.00 each employee.

Comprehensive General Liability: Bodily Injury \$1,000,000.00 each occurrence, \$1,000,000.00 aggregate, Property Damage \$1,000,000.00, including completed operations.

Automobile Liability: Bodily Injury and Property Damage - \$1,000,000.00 each occurrence.

Additional Insured: General Liability to Include: Fitness International, Certificate Holder, C. E. Gleeson Constructors, Inc. and Leo J. Hein Construction, Inc., additional insured.

### ARTICLE 7

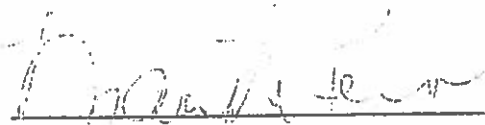
**INDEMNIFICATION:** To the fullest extent permitted by law, Subcontractor shall indemnify and hold harmless Owner, Architect, Architect's consultants, Construction Manager and Contractor from all damages, losses or expenses, including attorneys fees, from any claims or damages for bodily injury, sickness, disease or death, or from claims for damage to tangible property, other than the Work itself. This indemnification shall extend to claims resulting from performance of this Subcontract and shall apply only to the extent that the claim or loss is caused in whole or in part by any negligent act or omission of Subcontractor or any of its agents, employees or subcontractors. This indemnity shall be effective regardless of whether the claim or loss is caused in some part by a party to be indemnified.

ARTICLE 8

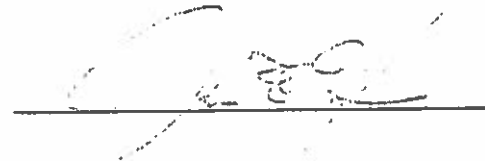
**WARRANTY:** Subcontractor warrants its work against all deficiencies and defects in material and/or workmanship and agrees to satisfy same without cost to Owner or Construction Manager for the period described in Contract Documents for Subcontractor's Scope of Work.

IN WITNESS WHEREOF the parties have executed this Agreement under Seal, the day and year first written above.

**Leo J. Hein Construction, Inc**  
(Contractor)

A handwritten signature in dark ink, appearing to read "Leo J. Hein", is written over a horizontal line.

**J F S Company**  
(Subcontractor)

A handwritten signature in dark ink, appearing to read "J F S", is written over a horizontal line.